

# House Study Bill 31 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON HOLT)

## A BILL FOR

1 An Act creating a civil remedy for the disclosure of private,  
2 sexually explicit images without consent of the depicted  
3 individual.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **659A.1 Short title.**

2     This chapter may be cited as the "Uniform Civil Remedies for  
3 Unauthorized Disclosure of Intimate Images Act".

4     Sec. 2. NEW SECTION.   **659A.2 Definitions.**

5     As used in this chapter, unless the context otherwise  
6 requires:

7     1. "*Consent*" means affirmative, conscious, and voluntary  
8 authorization by an individual with legal capacity to give  
9 authorization.

10    2. "*Depicted individual*" means an individual whose body is  
11 shown in whole or in part in an intimate image.

12    3. "*Disclosure*" means transfer, publication, or distribution  
13 to another person. "*Disclose*" has a corresponding meaning.

14    4. "*Identifiable*" means recognizable by a person other than  
15 the depicted individual from any of the following:

16     a. An intimate image itself.

17     b. An intimate image and identifying characteristic  
18 displayed in connection with the intimate image.

19    5. "*Identifying characteristic*" means information that may  
20 be used to identify a depicted individual.

21    6. "*Individual*" means a human being.

22    7. "*Intimate image*" means a photograph, film, video  
23 recording, or other similar medium that shows any of the  
24 following:

25     a. The uncovered genitals, pubic area, anus, or female  
26 post-pubescent nipple of a depicted individual.

27     b. A depicted individual engaging in or being subjected to  
28 sexual conduct.

29    8. "*Person*" means an individual, estate, business  
30 or nonprofit entity, public corporation, government or  
31 governmental subdivision, agency, or instrumentality, or other  
32 legal entity.

33    9. "*Sexual conduct*" includes all of the following:

34     a. Masturbation.

35     b. Genital, anal, or oral sex.

1     *c.* Sexual penetration of, or with, an object.

2     *d.* Bestiality.

3     *e.* The transfer of semen onto a depicted individual.

4     Sec. 3. NEW SECTION.   **659A.3 Civil action.**

5     1. As used in this section, unless the context otherwise  
6 requires:

7     *a.* "*Harm*" includes physical harm, economic harm, and  
8 emotional distress whether or not accompanied by physical or  
9 economic harm.

10    *b.* "*Private*" means any of the following:

11     (1) Created or obtained under circumstances in which a  
12 depicted individual had a reasonable expectation of privacy.

13     (2) Made accessible through theft, bribery, extortion,  
14 fraud, false pretenses, voyeurism, or exceeding authorized  
15 access to an account, message, file, device, resource, or  
16 property.

17    2. Except as otherwise provided in section 659A.4, a  
18 depicted individual who is identifiable and who suffers harm  
19 from a person's intentional disclosure or threatened disclosure  
20 of an intimate image that was private without the depicted  
21 individual's consent has a cause of action against the person  
22 if the person knew, or acted with reckless disregard regarding,  
23 all of the following:

24     *a.* The depicted individual did not consent to the  
25 disclosure.

26     *b.* The intimate image was private.

27     *c.* The depicted individual was identifiable.

28    3. The following conduct by a depicted individual does  
29 not establish by itself that the individual consented to the  
30 disclosure of the intimate image which is the subject of an  
31 action under this chapter or that the individual lacked a  
32 reasonable expectation of privacy:

33     *a.* Consent to creation of the image.

34     *b.* Previous consensual disclosure of the image.

35    4. A depicted individual who does not consent to the

1 sexual conduct or uncovering of the part of the body depicted  
2 in an intimate image of the individual retains a reasonable  
3 expectation of privacy even if the image was created when the  
4 individual was in a public place.

5 Sec. 4. NEW SECTION. 659A.4 **Exceptions to liability.**

6 1. As used in this section, unless the context otherwise  
7 requires:

8 a. "*Child*" means an unemancipated individual who is less  
9 than eighteen years of age.

10 b. "*Parent*" means an individual recognized as a parent under  
11 law of this state other than this chapter.

12 2. A person is not liable under this chapter if the person  
13 proves that disclosure of, or a threat to disclose, an intimate  
14 image was any of the following:

15 a. Made in good faith in any of the following circumstances:

16 (1) Law enforcement.

17 (2) A legal proceeding.

18 (3) Medical education or treatment.

19 b. Made in good faith in the reporting or investigation of  
20 any of the following:

21 (1) Unlawful conduct.

22 (2) Unsolicited and unwelcome conduct.

23 c. Related to a matter of public concern or public interest.

24 d. Reasonably intended to assist the depicted individual.

25 3. Subject to subsection 4, a defendant who is a person  
26 responsible for the care of a child as defined in section  
27 232.68 is not liable under this chapter for a disclosure or  
28 threatened disclosure of an intimate image, as defined in  
29 section 659A.2, subsection 7, paragraph "a", of the child.

30 4. If a defendant asserts an exception to liability under  
31 subsection 3, the exception does not apply if the plaintiff  
32 proves the disclosure was any of the following:

33 a. Prohibited by law other than this chapter.

34 b. Made for the purpose of sexual arousal, sexual  
35 gratification, humiliation, degradation, or monetary or

1 commercial gain.

2 5. Disclosure of, or a threat to disclose, an intimate image  
3 is not a matter of public concern or public interest solely  
4 because the depicted individual is a public figure.

5 Sec. 5. NEW SECTION. **659A.5 Plaintiff's privacy.**

6 In an action under this chapter all of the following are  
7 true:

8 1. The court may exclude or redact from all pleadings and  
9 documents filed in the action other identifying characteristics  
10 of the plaintiff under rule of civil procedure 1.422.

11 2. A plaintiff to whom subsection 1 applies shall file with  
12 the court and serve on the defendant a confidential information  
13 form that includes the excluded or redacted plaintiff's name  
14 and other identifying characteristics.

15 3. The court may make further orders as necessary to protect  
16 the identity and privacy of a plaintiff.

17 Sec. 6. NEW SECTION. **659A.6 Remedies.**

18 1. In an action under this chapter, a prevailing plaintiff  
19 may recover all of the following:

20 a. The greater of the following:

21 (1) Economic and noneconomic damages proximately caused by  
22 the defendant's disclosure or threatened disclosure, including  
23 damages for emotional distress whether or not accompanied by  
24 other damages.

25 (2) Statutory damages not to exceed ten thousand dollars  
26 against each defendant found liable under this chapter for all  
27 disclosures and threatened disclosures by the defendant of  
28 which the plaintiff knew or reasonably should have known when  
29 filing the action or which became known during the pendency of  
30 the action. In determining the amount of statutory damages  
31 under this subparagraph, consideration shall be given to all  
32 of the following:

33 (a) The age of the parties at the time of the disclosure or  
34 threatened disclosure.

35 (b) The number of disclosures or threatened disclosures

1 made by the defendant.

2 (c) The breadth of distribution of the image by the  
3 defendant.

4 (d) Other exacerbating or mitigating factors.

5 b. An amount equal to any monetary gain made by the  
6 defendant from disclosure of the intimate image.

7 c. Punitive damages as allowed under chapter 668A.

8 2. In an action under this chapter, the court may award a  
9 prevailing plaintiff all of the following:

10 a. Reasonable attorney fees and costs.

11 b. Additional relief, including injunctive relief.

12 3. This chapter does not affect a right or remedy available  
13 under law of this state other than this chapter.

14 Sec. 7. NEW SECTION. **659A.7 Statute of limitations.**

15 1. An action under section 659A.3, subsection 2, for:

16 a. An unauthorized disclosure shall not be brought later  
17 than four years from the date the disclosure was discovered or  
18 should have been discovered with the exercise of reasonable  
19 diligence.

20 b. A threat to disclose shall not be brought later than four  
21 years from the date of the threat to disclose.

22 2. This section is subject to section 614.8.

23 Sec. 8. NEW SECTION. **659A.8 Construction.**

24 This chapter shall be construed to be consistent with the  
25 Communications Decency Act of 1996, 47 U.S.C. §230.

26 Sec. 9. NEW SECTION. **659A.9 Uniformity of application and**  
27 **construction.**

28 In applying and construing this chapter, consideration shall  
29 be given to the need to promote uniformity of the law with  
30 respect to its subject matter among states that enact it.

31 Sec. 10. Section 614.8, subsection 2, Code 2021, is amended  
32 to read as follows:

33 2. Except as provided in [section 614.1, subsection 9](#), the  
34 times limited for actions in [this chapter](#), or [chapter 216](#),  
35 [659A](#), [669](#), or [670](#), except those brought for penalties and

1 forfeitures, are extended in favor of minors, so that they  
2 shall have one year from and after attainment of majority  
3 within which to file a complaint pursuant to [chapter 216](#), to  
4 make a claim pursuant to [chapter 669](#), or to otherwise commence  
5 an action.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with  
8 the explanation's substance by the members of the general assembly.

9 This bill enacts the uniform civil remedies for unauthorized  
10 disclosure of intimate images Act, which creates a cause of  
11 action for the disclosure of private, sexually explicit images  
12 without consent.

13 The bill applies only to sensitive content created or  
14 obtained under circumstances in which the individual had a  
15 reasonable expectation of privacy. The bill includes limited  
16 exceptions for certain disclosures, including those made in  
17 the course of law enforcement, legal proceedings or education,  
18 medical treatment, or investigations of misconduct. The bill  
19 also includes an exception for disclosures relating to matters  
20 of public concern or public interest and disclosures reasonably  
21 intended to assist the victim.

22 The bill notes federal statutory limitations on the  
23 liability of providers and users of interactive computer  
24 services consistent with the Communications Decency Act of  
25 1996, 47 U.S.C. §230.

26 The bill does not impose liability on a discloser who lacks  
27 the requisite awareness of any of these elements: (1) that the  
28 image was created or obtained under circumstances in which the  
29 individual had a reasonable expectation of privacy or that the  
30 image was obtained through theft, bribery, false pretenses,  
31 voyeurism, or other wrongful acts, (2) that the individual  
32 shown in the image did not consent to the disclosure, or (3)  
33 that the individual shown was identifiable.

34 The bill protects a plaintiff's privacy by allowing the  
35 court to redact or exclude identifying characteristics of the

1 plaintiff from the pleadings or documents filed in the action.  
2 The plaintiff is required to file and serve the defendant with  
3 a confidential information form that includes the redacted  
4 or excluded information. The court is also allowed to make  
5 further orders as necessary to protect the plaintiff's identity  
6 and privacy.

7 The bill provides civil remedies that the plaintiff may  
8 recover including the greater of either economic or noneconomic  
9 damages or statutory damages not to exceed \$10,000, an amount  
10 equal to any monetary gain made by the defendant from the  
11 disclosure of the intimate image, and punitive damages. The  
12 bill also provides that a prevailing plaintiff may be awarded  
13 reasonable attorney fees and costs and additional relief.

14 The bill provides for a statute of limitations in which  
15 a plaintiff must bring a cause of action under the new Code  
16 chapter or otherwise be barred from doing so, but tolls the  
17 statute of limitations for minors.

18 The bill only provides a civil remedy, but under current Code  
19 section 709.21 similar conduct is an aggravated misdemeanor.